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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR            | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/040,575      | 11/01/2001  | Antonio Carlos Ribeiro Carvalho | J&J-2045            | 2649             |

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EXAMINER

WEBB, JAMISUE A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3761

DATE MAILED: 04/14/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/040,575

Applicant(s)

CARVALHO ET AL.

Examiner

Jamisue A. Webb

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,6,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Specification***

1. The abstract of the disclosure is objected to because The Abstract is only one sentence long and reads like a claim, in fact seems to be a copy of one of the claims. The abstract should be a narrative of what the invention is. See MPEP for suggestions on Abstract language. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Sturino (5,713,886).
4. With respect to Claim 1: Sturino discloses the use of an absorbent article (10) with a topsheet (14), backsheet (16) and core (12) located there between. Sturino discloses flaps (26,28,30) extending outward from the side edges and two bending axis (dotted lines located in the front distal end 20), which converge towards the longitudinal centerline (See Figure 1).

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5. With respect to Claim 4: Sturino discloses the width as the smallest part in the first distal end to be 29mm (column 2, line 38).

6. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Molas (US2002/0078618 A1).

7. With respect to Claims 1-3: Molas discloses the use of a sanitary napkin (1) with a topsheet, backsheet and core located there between (page 2, paragraph 0022). Molas discloses flaps (4,5) extending outward of the side edge (Figures 1 and 2) and two bending axis (2) which are embossed lines (page 3, paragraph 0033), which are located inward of the side edge and converge towards the longitudinal centerline from the front through the transverse centerline and to the rear (See Figure 1).

8. With respect to Claim 6: See Figure 1.

9. With respect to Claim 7: See Pages 3 and 4, paragraph 0037.

10. Claims 1-3, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Widlund et al. (5,931,162).

11. With respect to Claims 1-3: Widlund discloses the use of an absorbent article which as a sanitary napkin (see abstract) with a topsheet (1), backsheet (2) and core (3) located there between. Widlund discloses the use of flaps (6) extending outward of the side edge (See Figure 6) and bending axes (22, 23) located within the side edge and converge towards the longitudinal centerline, from the front through the transverse centerline and to the rear (see Figures 6-8).

12. With respect to Claim 6: See Figures 6-8.

***Claim Rejections - 35 USC § 103***

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sturino (5,713,886).

14. Sturino discloses the width of the first distal end to be less than 30mm, but fails to disclose the width in the first distal end to be between 15 and 20mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the width in the first distal end be 15-20mm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

15. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Widlund et al. (5,391,162).

16. Widlund, as disclosed above for Claims 1 and 6) has side margins which wrap around the garment (figures 6-8), and the side margins obviously have a width, however Widlund is silent as to what that width is, and therefore does not disclose the width of the side margin being at least 7mm or further 10-20mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the side margin have a width of greater than 7mm or between 10-20mm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

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*Conclusion*

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Motta et al. (US2002/0138055) discloses the use of an absorbent garment with side flaps for used in a thong, and Kjellberg (5,423,787) discloses the use of a sanitary napkin with decreases in width from the front to the rear.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw  
April 7, 2003

  
WEILUN LO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700